THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.12857 OF 2007

ORAL ORDER:

This writ petition is filed seeking a declaration that the impugned notice dated 11.6.2007 issued by the 1st respondent under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Act") as arbitrary and illegal.

It is not in dispute that the petitioner is the borrower and the impugned sale is proposed to be conducted for recovery of the amounts by proceeding against the secured assets. However, it is contended by the petitioner that since the 1st respondent-Bank has already filed O.S.No.28 of 2005 in the Court of the Senior Civil Judge, Anakapalle, for recovery of the alleged amounts due from the petitioner, which is pending, the impugned sale proceedings cannot be maintained under the Act.

The law is well settled that mere pendency of recovery proceedings before the Civil Court is not a bar to invoke the remedy under the Act, since the remedy under the Act is an additional remedy and the doctrine of election does not apply (vide **Tramcore (M/s) v. Union of India and another**[1]). In the circumstances, I do not find any justifiable reason to stay the auction as sought by the petitioner. However, this shall not preclude the petitioner to approach the 1st respondent-Bank for redressal of his grievance, if any, or to work out the alternative remedy provided under Section 17 of the Act. No costs.

25th June, 2007. **(G. ROHINI, J.)**
Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.12857 OF 2007

25th June, 2007.

Between:

M/s Sri Venkata Satyanarayana Manure Depot,
Dallivari Street, Gandhi Market,
Proprietor – K.V.S.K.T. Suryanarayana. ..Petitioner.

And

The Authorised Officer,
Bank of India,
Anakapalle Branch,
Visakhapatnam and another. .. Respondents.

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[1] 2007(1) ALD 109(SC).